

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

AUTHOR J. MANNING, JR.,

Plaintiff,

V.

PARAMOUNT, et al.,

Defendants.

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Case No. 6:23-cv-444-JDK-JDL

**ORDER ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE IN PART**

Plaintiff Author J. Manning, Jr. brought this pro se copyright action against Defendant Paramount in state court on May 9, 2023. Paramount subsequently removed the case to federal court. The case was referred to United States Magistrate Judge John D. Love for findings of fact, conclusions of law, and recommendations for the disposition of the case. On September 28, 2023, Plaintiff filed an amended complaint adding several new defendants. Docket No. 11.

Before the Court is Defendant Paramount's motion to dismiss Plaintiff's first amended complaint. Docket No. 15.

I.

On October 19, 2023, Judge Love issued a Report recommending that the Court dismiss Plaintiff's claims against Defendant Paramount with prejudice pursuant to Federal Rule of Civil Procedure 12(b)(6) for failure to state a claim. Docket No. 19. Defendant Paramount filed objections to the Report and Recommendation. Docket

No. 24. Plaintiff has also filed four documents, including a “Motion to Reinstate the Case” (Docket No. 21), a “Motion for New Trial” (Docket No. 22), a “Response [to] Motion to Dismiss” (Docket No. 23), and a “Motion to Appeal” (Docket No. 26), which appear to respond to the Report and Recommendation. The Court will construe these documents as Plaintiff’s objections to the Report.

II.

Where a party timely objects to the Report and Recommendation, the Court reviews the objected-to findings and conclusions of the Magistrate Judge de novo. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass’n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).

III.

A. Paramount’s Objections

Paramount does not object to the recommendation to dismiss the claims against it with prejudice. Rather, Paramount objects to Judge Love’s decision not to address Plaintiff’s claims against Defendant Viacom CBS because Plaintiff had not yet served Viacom with process. Docket No. 19 at 2 n.1.

Paramount argues that Viacom and Paramount are the same entity, and therefore Plaintiff properly served Viacom when he served Paramount. Docket No. 20 at 2. Paramount asks the Court to take judicial notice that Paramount and Viacom are the same entity pursuant to Federal Rule of Evidence 201. Docket No. 20 at 3.

The Court agrees. Because Paramount and Viacom are the same entity, the motion to dismiss should be construed as to both named parties. For the same reasons Plaintiff's amended complaint fails to state a claim against Paramount, it fails to state a claim against Viacom. *See* Docket No. 19 at 4–5. Accordingly, the Court will dismiss Plaintiff's claims against both Paramount and Viacom with prejudice.

B. Plaintiff's Objections


Plaintiff's filings merely reiterate the claim that Paramount and others use various intellectual properties that he created or owns without authorization or compensation. *E.g.*, Docket No. 23. Plaintiff states that this case must not be dismissed but does not explain why. *See id.* Plaintiff's motion to appeal likewise fails to identify any error in the Magistrate Judge's Report. Docket No. 26. Plaintiff also asks the Court to reinstate the case and requests a new trial. *See* Docket Nos. 21, 22. But the Court has not entered a final order or held a trial in this case. Accordingly, Plaintiff's motion to reinstate the case (Docket No. 21) and motion for a new trial (Docket No. 22) are **DENIED** as moot, and any objections by Plaintiff are **OVERRULED**.

IV.

Having conducted a de novo review of the record in this case and the Magistrate Judge's Report, the Court has determined that the Report of the Magistrate Judge is correct, and Plaintiff's objections are without merit. Accordingly, the Court hereby **ADOPTS** the Report of the Magistrate Judge (Docket No. 19) as the opinion of the District Court with the exception of footnote 1 (*see* Docket No. 19

at 2 n.1). The Court **GRANTS** Defendant's motion to dismiss (Docket No. 15). Plaintiff's claims against Defendants Paramount and Viacom CBS are **DISMISSED** with prejudice pursuant to Federal Rule of Civil Procedure 12(b)(6) for failure to state a claim upon which relief can be granted.

So **ORDERED** and **SIGNED** this 18th day of **December, 2023**.



JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE